

Chapter 1.00
Code Adoption

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1.00.010 **Authority**

(a) The Administrative Code of the San Diego County Water Authority is the official administrative code of the San Diego County Water Authority and has been established by the board of directors pursuant to Section 13 of the County Water Authority Act [Stats. 1945, c. 545, as amended].¹

(b) This Code shall be construed in a manner that is consistent with the provisions of the County Water Authority Act.

1.00.020 **Citation**

(a) This Code shall be referred to as the Administrative Code of the San Diego County Water Authority. However, for the purposes of referring to this Code in any ordinance, resolution, motion, rule, regulation, or policy of the Authority it shall be sufficient to refer to this Code as the Administrative Code. Citation to this Code may be by reference to the articles, chapters, sections and subsections hereof. Reference herein to this Code shall mean the Administrative Code of the San Diego County Water Authority.

(b) Whenever reference is made to this Code as the Administrative Code of the San Diego County Water Authority, or to the Administrative Code as authorized by subsection (a), or to any article, chapter, section or subsection thereof, it shall be presumed that the reference is to the most current version of the Code, including all amendments, corrections, additions, deletions or other modification thereto, unless the contrary is clearly indicated from the context.

(c) Article, chapter and section headings of this Code are for convenience only and shall not be construed to govern or in any manner affect the meaning or intent of any of the provisions of this Code.

1.00.030 **Amendments**

(a) This Code and any of its provisions may be amended, supplemented or repealed by ordinance of the Board of Directors.

(b) The adoption, repeal or amendment of this Code or any of its provisions shall not affect any action, proceeding, debt, obligation, or right commenced, established or vested prior to the effective date of the ordinance adopting, repealing or amending this Code or any of its provisions unless a contrary intent is clearly indicated in the ordinance.

1.00.040 **Ordinances and Resolutions**

- (a) Legislative actions of the Board may be taken by resolution or ordinance.
- (b) Administrative, executive and ministerial actions of the Board may be taken by resolution or motion duly noted in the record of the meeting at which the motion is made.
- (c) Actions to levy, impose, fix, adjust or increase taxes, standby water availability charges, fees, rates or other charges, shall be taken by ordinance.
- (d) All ordinances or resolutions shall be prepared or approved as to form and legality by the General Counsel.
- (e) Except as otherwise required by law, ordinances and resolutions shall be adopted by the affirmative votes of members of the Board representing more than fifty percent of the number of votes of all member public agencies, except that if the public agency member having the largest total financial contribution to the Authority has more than thirty-eight percent of the total financial contribution to the Authority, the affirmative votes of members representing more than fifty-five percent of the number of votes of all member public agencies shall be necessary.²
- (f) Ordinances shall be adopted at a regular meeting or adjourned regular meeting. Resolutions may be adopted at any meeting subject to the provisions of the Ralph M. Brown Act (Gov't Code §§ 54950 et seq.). The title of resolutions appropriating or ordering payment of money and ordinances shall be printed on the agenda of the meeting at which the ordinance or resolution is scheduled for consideration.
- (g) Ordinances and resolutions shall be effective upon adoption. Within seven days after the adoption of an ordinance the Clerk of the Board shall cause the ordinance to be posted in full in a prominent location on the Water Authority's website for not less than 30 days along with the votes for and against the ordinance. The failure to post an ordinance in a timely manner shall not affect its validity or effective date.
- (h) Within seven days after adoption, the Clerk of the Board shall post each ordinance or resolution in a place at the Authority's principle business office designated by the General Manager and accessible to the public during regular business hours. Ordinances and resolutions shall remain posted for at least two weeks. The failure to post an ordinance or resolution in a timely manner shall not affect its validity or effective date.
- (i) The Clerk of the Board shall keep a permanent record of ordinances and resolutions.
- (j) Ordinances and resolutions may be signed by the chairperson of the Board and by the secretary of the Board. No ordinance or resolution duly adopted by the Board shall be deemed invalid due to the delay or failure of the chairperson or secretary to sign it.

(k) The Clerk of the Board or the General Manager are authorized to provide a conformed copy of any ordinance or resolution of the Authority to any person, and to certify that such conformed copy is a true and correct copy of an original official record of the Authority.

(l) Except as otherwise specifically authorized, ordinances and resolutions shall not be amended, superseded or repealed except by adoption of an amending superseding or repealing ordinance or resolution, respectively. However, at any time corrections of typographical or clerical errors in ordinances and resolutions may be made upon approval of the General Counsel. Ordinances or resolutions submitted in draft form, or to which spot amendments have been made, or in which typographical or other technical errors are found, may be rewritten by the General Counsel within five days following adoption to accurately reflect the action of the Board. Such rewritten version shall become the original for all purposes, including publication and posting.

¹ The predecessor of this Code was first adopted by reference on August 10, 1961, by Ordinance No. 76, and identified as Document No. 1338, on file in the office of the Clerk of the Board. The original code was recodified on March 13, 1997 by Resolution No. 1997-06. The Code referred to in this section is a comprehensive revision and recodification that supersedes and replaces all prior codes. Existing administrative ordinances and resolutions in conflict with the provisions of this Code were repealed concurrently with its adoption.

² The number of votes of each member public agency is determined according to section 6 of the County Water Authority Act.

Chapter 1.04
Local Conflict of Interest/Ethics Code

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Section 1.04.010 **Title**

This chapter shall be known and may be cited as “Local Conflict of Interest Code of the San Diego County Water Authority.”

Section 1.04.020 **Authority**

This chapter is adopted pursuant to the provisions of the “Political Reform Act of 1974,” Title 9 of the Government Code commencing with Government Code Section 81000 (“Political Reform Act”), as amended, and regulations of the California Fair Political Practices Commission at Section 18700 et. seq. of Article 2 of Chapter 7 of Division 6 of Title 2 of the California Code of Regulations. Should any provision in this Local Conflict of Interest Code conflict with State law, the provisions of State law shall apply.

Section 1.04.030 **Purpose**

(a) This chapter establishes the provisions of the Local Conflict of Interest Code of the San Diego County Water Authority. The policy of the San Diego County Water Authority is to maintain the highest ethical standards for its Board members. The proper operation of the Authority requires decisions and policy to be made within the proper channels of governmental structure, that public office not be used for personal gain, and that Board members remain objective and responsive to the needs of the public they serve. Accordingly, it is the policy of the Authority that Board members and Authority employees maintain the highest standard of personal honesty and fairness in carrying out their duties. This chapter sets forth the basic ethical standards to be followed by the Board of Directors of the Authority. The objectives of this policy are to (1) provide guidance for dealing with ethical issues, (2) heighten awareness of ethics and values as critical elements in Board members' conduct, and (3) improve ethical

decision-making and values-based management. In carrying out their duties, Authority officials should exercise fairness, impartiality, and avoid behavior that is likely to create an appearance of impropriety. This policy sets forth the minimal ethical standards to be followed by Authority officials.

(b) This chapter is adopted in order to:

1. Comply with the requirements of Government Code Section 87300, requiring local agencies to adopt and promulgate a local conflict of interest code that has the force of law.
2. Enumerate and differentiate the positions of employment within the Authority for which the customary and usual job duties involve the making of decisions that may have a reasonably foreseeable material effect upon a financial interest.
3. Require the disclosure of such interests, by setting forth the specific types of financial interests that are reportable for each designated position.
4. Require that officers and designated employees disqualify themselves from making, participating in making or using their position to influence Authority decisions that may have a reasonably foreseeable material impact on a financial interest of the officer or designated employee.

(c) This chapter shall be reviewed and may periodically be revised as required by the provisions of the Political Reform Act of the State of California.

Section 1.04.040 **Incorporation of State Laws**

The provisions of the Political Reform Act, and Title 2, Section 18730 of the California Code of Regulations existing on January 1, 2024 and as may from time-to-time be amended by the Fair Political Practices Commission, except those provisions thereof that apply solely to members of state boards or commissions or designated employees of state agencies, are hereby adopted by this reference. The provisions of Title 2, Section 18730 of the California Code of Regulations are referred to hereinafter as the “Standard Code.” The most recent version of the Standard Code shall be kept on file with the Clerk of the Board. Any term not defined in this Chapter shall have the meaning ascribed to such term per State law.

Section 1.04.050 **Filing of Statements of Economic Interests**

Pursuant to Section 4 of the Standard Code, designated employees shall file Form 700 Statements of Economic Interests with the Clerk of the Board. Upon receipt of the statements of members of the Board, the General Manager, the Director of Finance and the Treasurer the Clerk of the Board shall make and retain a copy and forward the original statements to the Clerk of the San Diego County Board of Supervisors, who shall be the filing officer. The Clerk of the Board is the filing officer for and will retain statements for all other designated employees.

Section 1.04.060 **Public Officers Who Manage Public Investments**

The members of the Board, the General Manager, the Director of Finance and the Treasurer are designated under Government Code Section 87200 and 2 Cal. Code of Regs. 18700.3 as “other public officials who manage public investments.” Persons in these positions are subject to and required to disclose financial interests pursuant to Government Code Sections 87200 – 87210. Persons in these positions are subject to the disqualification requirements of this chapter.

Section 1.04.070 **Designated Employees**

“Designated employee” means any officer, employee or consultant of the Authority who has a designated position with the Authority.

Section 1.04.080 **Designated Positions**

“Designated position” means a position with the Authority specified in the Appendix to this Code or that is determined by the General Manager to entail the making or participation in the making of decisions that foreseeably may have a material effect on any financial interest and is so designated pursuant to section 1.04.120.

Section 1.04.090 **Disqualification**

No designated employee or public official who manages public investments shall make, participate in making, or in any way attempt to use his or her official position to influence the making of any governmental decision which he or she knows or has reason to know will have a reasonably foreseeable material financial effect, distinguishable from its effect on the public generally, on the designated employee or public official, or a member of his or her immediate family, or on any financial interest identified in subdivision (b)(9) of Title 2, Section 18730 of the California Code of Regulations.

Section 1.04.100 **Determination of Conflicts of Interest**

If a member of the Board or Authority staff member has reason to believe he or she has a potential conflict of interest with respect to a governmental decision, he or she may give the full facts of the matter to the General Counsel and request advice thereon. The request for advice should be submitted to the General Counsel at a time that will allow the General Counsel a reasonable opportunity to analyze the facts and law and to seek appropriate assistance from the Fair Political Practices Commission. Any response by the General Counsel shall be in writing, if time permits, and delivered to the requestor with a copy to the Clerk of the Board before the time scheduled for the decision. A memorandum filed with the Clerk of the Board shall memorialize oral responses. The Authority may retain the services of an appraiser, economist or similar experts whenever the General Counsel determines that such services are necessary for the analysis of the potential conflict of interest. Nothing in this section shall be construed to preclude any official from seeking advice regarding a conflict of interest from the Fair Political

Practices Commission or any other person. Nothing in this section shall be construed to create an individual attorney-client relationship between the General Counsel and any person.

Section 1.04.110 **Application of Other Laws**

Nothing in this chapter shall be construed to limit the application of any other law relating to conflicts of interest, including, but not limited to, Government Code Sections 1090 through 1098, inclusive.

Section 1.04.120 **Appendix**

The Board, by resolution, shall adopt and periodically revise as required by the Political Reform Act of the State of California a list of designated positions and disclosure requirements for employees holding designated positions. The resolution shall constitute the "Appendix" referred to in subsection (b)(3) [Disclosure Categories] of 2 Cal. Code of Regs. Section 18730.

The General Manager, in consultation with the General Counsel, may add designated positions and establish disclosure requirements for such positions whenever a new job classification is created. Such designation shall be effective pending amendment of this chapter or the appendix by the board of directors.

Section 1.04.130 **Use or Disclosure of Confidential Information for Pecuniary Gain**

(a) Pursuant to Government Code Section 1098, no director, officer or employee of the Authority shall use or disclose confidential information received in the course and scope of their office or employment, for pecuniary gain. Such use of confidential information constitutes a violation of Government Code Section 1098, a misdemeanor. The definitions and other provisions of Government Code Section 1098 shall apply to the interpretation of this section.

(b) No Director, without approval of the Board, shall disclose information that qualifies as confidential information under applicable provisions of law to a person not authorized to receive it, that (1) has been received for, or during, a closed session meeting of the Board (Government Code section 54963), (2) is protected from disclosure under the attorney/client or other evidentiary privilege, or (3) is not required to be disclosed under the California Public Records Act.

(c) This section does not prohibit any of the following: (1) making a confidential inquiry or complaint to a district attorney or grand jury concerning a perceived violation of law, including disclosing facts to a district attorney or grand jury that are necessary to establish the alleged illegality of an action taken by the Authority, an elected official or employee, (2) expressing an opinion concerning the propriety or legality of actions taken by the Authority in closed session, including disclosure of the nature and extent of the allegedly illegal action, or (3) disclosing information acquired by being present in a closed session that is not confidential information, as confirmed by the General Counsel. Prior to disclosing confidential information pursuant to (1) or (2), above, however, a Board member will first bring the matter to the attention of either the Chair of the Board or the full Board, to provide the Board an opportunity to cure an alleged violation.

Section 1.04.140 **Restriction on Contracts with Directors**

(a) Government Code section 1090 prohibits public agency board members from being financially interested in contracts made by them in their official capacities, or by their respective boards or commissions. This prohibition extends to votes made by boards irrespective of whether or not the interested public agency board member abstained from voting on the matter, disclosed the interest, or avoided discussions regarding the interest. A contract made in violation of Section 1090 is void even if a court finds no intentional wrongdoing by the financially interested member. Violations of Section 1090 further may result in the Director being forever disqualified from holding any office in this State. Additionally, the Authority shall not directly or indirectly contract with or employ any Director during the Director's term of service and (1) for a period of twelve months after the date service is terminated or, (2) for a period of twenty-four months after the date service is terminated as provided in sections 2.04.030 and 2.08.030 of this Code.

(b) Nothing in this section shall be construed to prohibit any contract: authorized and made pursuant to Government Code Section 1090.5 or 1091; or relating to compensation, benefits and reimbursement authorized by law and applicable to Directors generally; or publicly bid and awarded to the lowest responsible bidder pursuant to Chapter 4.08 of this Code and otherwise authorized by law.

Section 1.04.150 **Investigations of Ethics/Conflicts Complaints**

(a) The Authority's General Counsel or, where (i) the General Counsel is the subject of the complaint, (ii) has a conflict of interest, as alleged by either the complainant or the subject of the complaint or (iii) fear of reprisal exists in directing the information to the General Counsel, the matter shall be referred to an outside investigator having expertise in investigation of conflicts and ethics matters retained by the General Counsel ("Investigating Representative") to assist with violations of this Chapter. The Investigative Representative shall investigate all formal and informal complaints or allegations of violations of this Chapter 1.04, Section 2.00.080 (Meetings) of this Code, or other applicable conflict of interest laws. The General Counsel shall have authority to retain outside counsel or an investigator to conduct any investigation of alleged violations.

(b) Any Director or employee may report or otherwise bring to the attention of the Investigating Representative any information regarding suspected ethics or conflicts violations.

(c) The Investigating Representative shall disclose to the entire Board the fact that an investigation is being pursued and provide any summary of the complaint or allegations with redactions as the Investigating Representative deems appropriate.

(d) Investigations of any complaints or alleged violations of this Chapter shall be addressed pursuant to any procedural rules adopted by the Board for such purpose.

Chapter 1.08
Official Designations

Section 1.08.010	Official Seal
Section 1.08.020	Principal Place of Business
Section 1.08.030	Agent for Service of Process
Section 1.08.040	Business Hours and Holidays
Section 1.08.050	Designation of Newspapers for Publication of Official Notices; Electronic Notices

1.08.010 Official Seal

(a) The design of the official seal of the San Diego County Water Authority is a circle with the words "San Diego County Water Authority - California" inscribed around the perimeter thereof with the words "Organized June 9, 1944" in the center thereof.

(b) The official seal may be affixed to an instrument, document or thing upon order of the board of directors. However, affixing the official seal to an instrument, document or thing shall not be required for the execution of any instrument or document of the Authority.

(c) The Board may develop and adopt an emblem, symbol, logo or other distinctive mark of the Authority.

(d) The official seal and any emblem, symbol, logo or other distinctive mark of the Authority shall be used solely for Authority purposes and programs, unless otherwise authorized by the Board. Private, commercial or non-commercial use of the official seal, mark, name or identity of the Authority is prohibited.

1.08.020 Principal Place of Business

The principal place of business and office of the Authority is 4677 Overland Avenue, San Diego, California. The board of directors may change the principal place of business as it determines necessary and convenient for the conduct of Authority business.

1.08.030 Agent for Service of Process

(a) Unless otherwise provided in this Code, the Clerk of the Board is designated as the agent for service of process on the Authority and is designated as the clerk of the legislative body of the Authority for such purpose.

(b) The Clerk of the Board shall include the designated agent for service of process on the Authority in the statement filed with the Secretary of State and the county clerk of San Diego County for placement in the Roster of Public Agencies pursuant to California Government Code Section 53051.

1.08.040 **Business Hours and Holidays**

(a) The General Manager shall establish and post the Authority's general business days and hours at its principal places of business.

(b) The Authority is normally closed on designated holidays. The list of Authority holidays is maintained and periodically updated in applicable Human Resources policies and Memoranda of Understanding and on the Authority's website. Nothing in this section precludes the establishment of additional holidays pursuant to Chapter 2.16 or by a memorandum of understanding with one or more recognized employee organizations.

(c) If a payment to the Water Authority is due to be made, or any notice to the Authority is due to be given, on any day that the Authority is closed under subdivision (a) or (b), the payment or notice shall be made or given on the next following business day. In the absence of an adopted schedule, the Authority's business days are Monday through Friday.

1.08.050 **Designation of Newspapers for Publication of Official Notices; Electronic Notices**

The Board may by resolution designate the newspaper or newspapers for publication of official notices of the Authority. The Authority shall publish any necessary notices as required by law and will endeavor to do so electronically when appropriate.

Chapter 1.12
Administrative Fines

- 1.12.010 **Authority**
- 1.12.020 **Administrative Fines for Violation of Regulations Regarding Authority Facilities, Property and Rights-of-Way**
- 1.12.030 **Definitions**
- 1.12.040 **Issuance of Administrative Citations / Notice of Violation**
- 1.12.050 **Service of Administrative Citation**
- 1.12.060 **Contents of Administrative Citation**
- 1.12.070 **Hearing on Administrative Citation**
- 1.12.080 **Appeal Procedures**
- 1.12.090 **Enforcement of Administrative Fine**
- 1.12.100 **Severability**

1.12.010 **Authority**

This chapter is adopted pursuant to Section 13, subdivision (b) of the CWA Act.

1.12.020 **Administrative Fines for Violation of Regulations Regarding Authority Facilities, Property and Rights-of-Way**

(a) Whenever a provision of this code prohibits an act or omission of a person with respect to Authority facilities, property, or rights-of-way, the violation of such provision is subject to administrative citation and payment of an administrative fine according to the provisions of this chapter.

(b) The amount of the administrative fine for each violation of a provision of this code prohibiting an act or omission of a person with respect to Authority facilities, property, or rights-of-way is as follows:

1. One hundred dollars for a first violation;
2. Two hundred dollars for a second violation of the same provision within one year;
3. Five hundred dollars for each additional violation of the same provisions within one year.

(c) If a violation involves a trespass or encroachment on Authority property or right of way, and a written notice to cease, terminate, eliminate or remove the trespass or encroachment has been posted on the Authority property or right of way where the trespass or encroachment occurs, then following the tenth day from the posting of the notice each day thereafter that the violation continues shall be a separate violation.

(d) The administrative fines established by this chapter shall be in the nature of civil penalties and shall be additional and cumulative to any other criminal or civil penalty or remedy established pursuant to state law.

(e) Administrative fines assessed by means of an administrative citation are payable directly to the Authority, are due upon issuance of an administrative citation and are delinquent 30 days from the date of the citation. Civil penalties assessed by means of an administrative citation will be collected according to the procedures specified in this chapter.

1.12.030 **Definitions**

The following words and phrases whenever used in this chapter shall have the meaning defined in this section:

“Administrative fine” means a civil penalty imposed by this chapter and assessed for violation of a provision of this Code pursuant to an administrative citation.

“Administrative citation” means a notice of a violation issued by an authorized employee or agent of the Authority pursuant to the provisions of this chapter.

“Appellant” means any person or entity who is the registered owner, property owner, legal owner, driver, operator, tenant, lessee, or is otherwise liable for penalties in accordance with the applicable section of this Code, and who contests or disputes liability for an administrative fine.

“Citable violation” means any violation of any provision of this Code that prohibits an act or omission of a person with respect to Authority facilities, property, or rights-of-way that is subject to administrative citation and payment of an administrative fine according to the provisions of this chapter.

“Enforcement officer” means the Director of Engineering, Right of Way Manager, Right of Way Technicians, and other employees of the Engineering Department that have been designated by the Director of Engineering and have received training in the issuance of administrative citations. Enforcement officer also means any peace officer having jurisdiction within the territory of any member agency of the Authority.

“Hearing officer” means any person appointed by the General Manager to preside over the administrative hearings provided for in this section.

“Person” means any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity, which is recognized by law as the subject of rights or duties.

“Party” means any natural person, firm, association, business, trust, organization, corporation, partnership, company, or any other entity that is legally recognized as the subject of rights or duties.

“Responsible party” means the person committing a violation. Responsible party also means an owner or manager of a business or property who directs or permits a violation of this Code to be done by any other person in the course or apparent course of business of the owner or manager or on the property of the owner.

1.12.040 **Issuance of Administrative Citations / Notice of Violation**

(a) Upon discovering or observing any citable violation for which an administrative fine has been prescribed, the enforcement officer may issue an administrative citation to the violator or property owner in the manner prescribed in Section 1.12.050. The administrative citation shall be issued on a form prescribed by the General Counsel. Once the party responsible for the violation is identified, the enforcement officer may issue an administrative citation to that person or entity.

(b) Any party responsible for a continuing citable violation shall be provided a Notice of Violation/Order to Correct prior to the issuance of an administrative citation. The Notice of Violation/Order to Correct shall specify the action required to correct or otherwise remedy the violation(s). Not less than 72 hours shall be allowed from the date of the Notice of Violation/Order to Correct for the party to correct or otherwise remedy the violation. The enforcement officer shall assign a specific reasonable period within which to correct or otherwise remedy each violation. The enforcement officer shall consider the cost of abatement or correction, the time needed to obtain estimates, drawings and contracts for correction, time required for physical relocation of personal property, and the time required to review submittals in determining the reasonable warning period to be assigned for each violation. A Notice of Violation/Order to Correct is not required before issuance of a second or any subsequent administrative citation for a continuing or repeated violation. Failure to comply with any portion of a Notice of Violation/Order to Correct may result in the issuance of an administrative citation.

(c) Notwithstanding subdivision (b) of this section, an enforcement officer may issue an administrative citation without providing a Notice of Violation/Order to Correct to any person who:

1. Trespasses on Authority property in violation of any sign prohibiting trespassing;
2. Damages, defaces or destroys any sign, fence, vent, valve, or other structure of the Authority;
3. Dumps, deposits, casts or places any waste, rock, dirt or other material on the right of way or other property of the Authority;
4. Grades, digs, excavates, fills or trenches any right of way or other property of the Authority.

(d) An enforcement officer may issue a Notice of Violation/Order to Correct a citable violation even if such notice and order is not required by this Section. If such a notice and order is issued the failure to comply with any portion of a Notice of Violation/Order to Correct may result in the issuance of an administrative citation

1.12.050 **Service of Administrative Citation**

Service of an administrative citation may be accomplished as follows:

1. By personal service on the responsible party. The enforcement officer may obtain the signature of the responsible party to establish personal service of the citation. If the responsible party refuses or otherwise fails to sign the administrative citation, the lack of signature shall not affect the validity of the citation or the proceedings.
2. By substituted service by certified or first class mail as follows: The administrative citation shall be mailed to the responsible party or property owner(s) by first class mail, postage prepaid. The citation shall be accompanied by declaration of service that complies with California Code of Civil Procedure Section 1013a. The failure of any responsible party to receive a properly addressed citation shall not affect the validity of the notice. Service of the administrative citation by mail shall be effective on the date of mailing.

1.12.060 **Contents of Administrative Citation**

The administrative citation shall include all the following:

1. A brief description of the violation;
2. The date and location of the violation(s) and the approximate time the violation(s) was observed;
3. The code section(s) violated;
4. A brief description of corrective action required, if appropriate;
5. A statement explaining that each day the violation continues constitutes a new violation, if applicable;
6. The amount of civil penalty imposed for the violation(s);
7. A statement advising that the fine is delinquent 30 days from the date the administrative citation was issued, the procedure for payment, and the consequences of failure to pay; and
8. A brief statement describing the responsible party's right of appeal.

1.12.070 **Hearing on Administrative Citation**

(a) Persons receiving an administrative citation may request a hearing within 10 calendar days from the date the citation is served. The hearing request must be in writing and must indicate a return address. It must be accompanied by the penalty amount, specifying the basis for the hearing in detail, and must be filed with the Authority as indicated in the administrative citation. If the deadline falls any day that the Authority's offices are closed for a holiday, then the deadline shall be extended until the next regular business day.

(b) As soon as practicable after receiving the written request for a hearing, the Authority shall fix a date, time and place for hearing before a hearing officer. Written notice of the time and place for the hearing may be served by first class mail, at the return address indicated on the written appeal. Service of the hearing date notice must be made at least 10 days prior to the date of the hearing to the appellant.

(c) The failure of any person with an interest in the property, or other responsible party, to receive such properly addressed notice of the hearing shall not affect the validity of any proceedings under this chapter. Service by first class mail, postage prepaid shall be effective on the date of mailing.

(d) Failure of any person to file a request for a hearing in accordance with the provisions of this section shall constitute a waiver of that person's rights to administrative hearing determination of the merits of the citation and the amount of the penalty. If no request for a hearing is filed, the citation shall be deemed a final administrative order.

(e) A hearing officer shall be a person designated by the General Manager, and may be an Authority employee vested with discretionary authority to make independent decisions on appeals. A hearing officer shall not be a subordinate of an enforcement officer, but may be an enforcement officer's supervisor. The hearing officer shall not have been involved in the issuance of the administrative citation that is the subject of an appeal. The responsible party may request the General Manager disqualify a hearing officer for reasons of actual bias, prejudice or financial conflict of interest.

(f) The hearing officer shall conduct an orderly fair hearing and accept evidence on which persons would commonly rely in the conduct of their ordinary business affairs, however, the formal rules of evidence and procedure applicable to judicial proceedings shall not apply. Cross-examination of witnesses is not required, but may be permitted as deemed appropriate by the hearing officer. Notwithstanding any provision of this section to the contrary:

1. A valid citation shall be prima facie evidence of the violation;
2. The hearing officer shall accept testimony by declaration under penalty of perjury relating to the violation and the appropriate means of correcting the violation;
3. The owner, agent, person responsible for the violation, or any other interested person may present testimony or evidence concerning the violation and the means and time frame for correction;
4. At the request of the appellant, the hearing officer shall permit the hearing to be conducted by submission of written declaration and authenticated documents alone.

(g) The General Manager, subject to approval by the General Counsel, may establish appropriate administrative regulations for implementing this ordinance, conducting hearings and rendering decisions pursuant to this section.

(h) The hearing officer may reduce, waive or conditionally reduce the penalties stated in a citation or any late fees assessed if mitigating circumstances are shown and the hearing officer states specific grounds for reduction or waiver in the written decision. The hearing officer may impose conditions and deadlines for correction of violations or payment of outstanding penalties.

(i) The hearing officer shall make findings based on the record of the hearing and make a written decision based on the findings. The processing agency shall preserve all exhibits submitted by the parties and shall serve the decision by first class mail on the responsible party within 10 working days after the hearing. The decision of the hearing officer dismissing the citation is final and conclusive. The decision of the hearing officer affirming the citation is final and conclusive, subject only to review by the Court.

1.12.080 **Appeal Procedures**

(a) After receipt of the hearing officer's decision, the person receiving the citation may file an appeal with the Court for de novo review. The request for review shall be submitted within 20 days of the date of mailing of the hearing officer's decision. The request for review shall be submitted on a form prescribed by the Court to the Authority, along with the applicable filing fee. The request for judicial review shall state the reasons the appellant objects to the hearing officer's findings or decision.

(b) The Court shall conduct a de novo hearing except that the contents of the processing agency file shall be received into evidence.

(c) A copy of the administrative citation and imposition of penalty shall be entered as prima facie evidence of the facts stated therein.

(d) The Court filing fee shall be such amount as determined by the Court. If the Court finds in favor of the appellant, the amount of the fee shall be reimbursed to the appellant by the Authority. Any deposit of penalty shall be refunded by the Authority in accordance with the judgement of the Court.

(e) If the penalty has not been deposited, and the decision of the Court is against the appellant, the Authority may proceed to collect the civil penalty in the manner provided by law.

1.12.090 **Enforcement of Administrative Fine**

(a) Payment of an administrative fine shall not excuse the failure to correct the violation nor shall it bar further enforcement action by the Authority.

(b) All administrative fines shall be payable to the San Diego County Water Authority.

(c) If a person fails to pay an administrative fine assessed by administrative citation within the time specified pursuant to this Chapter, without the filing of a request for hearing or appeal as provided in this Chapter, the person shall pay an additional administrative penalty in the amount of 100 percent of the total amount of the administrative fine.

(d) The failure of any person to pay an administrative fine, or an administrative penalty, assessed by administrative citation within the time specified on the citation constitutes a debt to the Authority. To enforce that debt, the Authority may file a civil action or pursue any other legal remedy to collect such money.

(e) The failure to pay an administrative fine after adjudication by a court on appeal shall be enforceable by any method available for enforcement of civil judgments.

1.12.100 **Severability**

If any section, subsection, sentence, clause, phrase or portion of this Chapter is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, independent and severable provision and such holding shall not affect the validity of the remaining portions hereof.

Chapter 1.16
Claims

Section 1.16.010	Requirement
Section 1.16.020	Delegation of Authority
Section 1.16.030	False Claims
Section 1.16.040	Refunds

Section 1.16.010 **Requirement**

(a) Claims against the Authority for money or damages which are excepted by California Government Code Section 905, subparagraphs (a), (c), (f), (g), (h), (i) and (k) from Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Title 1, Division 3.6, Part 3 of the California Government Code shall be governed by the procedure described in this section.

(b) The procedure for presentation of and action upon claims for money or damages subject to subsection (a) of this section shall be the same as for all other claims required to be submitted and acted upon prior to commencement of suit under the provisions of Title 1, Division 3.6 (commencing with Section 810) of the California Government Code. Any action brought against the Authority on any such claim shall be subject to the provisions of Sections 945.6 and 946 of the California Government Code.

(c) When a claim required by subsection (b) to be presented within a period of less than one year after the accrual of the cause of action is not presented within the required time, an application may be made to the Authority for leave to present such claim. Subdivision (b) of Section 911.4, Sections 911.6 to 912.2, inclusive, and Sections 946.4 and 946.6 of the California Government Code are applicable to all such claims, and the time specified in subsection (b) shall be deemed the “time specified in Section 911.2” within the meaning of Sections 911.6 and 946.6 of the Government Code.

Section 1.16.020 **Delegation of Authority**

(a) All claims shall be filed with the General Manager. The General Manager is authorized to accept for filing timely claims, to return or accept for filing untimely claims, and to deny or grant applications for leave to present late claims. The General Manager shall promptly provide the General Counsel with a copy of each claim accepted for filing. The General Manager is authorized to delegate administrative responsibilities under this subdivision as appropriate.

(b) The General Manager, with the consent of the General Counsel, may deny or reject any claim or permit denial or rejection of a claim by operation of law. The General Manager shall cause notice of the denial or rejection of a claim to be given as provided by the California Government Code. The General Manager is authorized to delegate administrative responsibilities under this subdivision as appropriate.

(c) The General Manager and General Counsel are authorized to grant, settle or compromise any claim in an amount not to exceed \$50,000. The General Manager and General Counsel are authorized to grant, settle or compromise any workers' compensation claim in an amount not to exceed \$250,000 when permitted or required by an approved alternative dispute resolution system established in connection with a project labor agreement. The General Manager and General Counsel, subject to ratification by the Board when required by statute, are authorized to reimburse advances made against a deductible or self-insured retention in amounts not to exceed \$250,000 per occurrence when required by the terms of a policy of insurance of the Authority under a wrap-up or owner controlled insurance program established in connection with a project labor agreement.

(d) The General Counsel is authorized to defend, retain special counsel to defend, or tender pursuant to any contract or agreement the defense of any action, proceeding or suit brought against the Authority, or against any officer or employee of the Authority whenever the Authority is or may be required by law to provide for the defense or indemnification of the officer or employee. Whenever the Authority provides for the defense and indemnification of an officer or employee, the Authority shall have the complete right to compromise the action, proceeding or suit at any time. The General Counsel is authorized to retain additional special counsel at the expense of the Authority to provide for the defense of an officer or employee whenever the General Counsel determines that such retention is appropriate to comply with rules of professional conduct of attorneys in California or otherwise in the best interest of the Authority.

(e) The General Counsel and General Manager are authorized to settle or compromise any action, proceeding or suit for money or damages in an amount not to exceed \$50,000.

(f) All power to grant, settle, compromise, defend, initiate or prosecute any claim, action, proceeding or suit for money or damages not otherwise delegated by this Chapter is reserved to the Board.

Section 1.16.030 False Claims

No person shall submit a false claim to the Authority.

Section 1.16.040 Refunds

The General Manager is authorized, when the General Manager deems it appropriate, to refund any monies previously paid to the Authority in an amount not to exceed \$100,000. However, notwithstanding the foregoing, the General Manager shall not refund capacity charges except in cases where a member agency has also refunded its portion of capacity charges, or where otherwise required by law.

Chapter 1.20
Definitions and Interpretation

Section 1.20.010	Definitions
Section 1.20.020	Titles and Headings
Section 1.20.030	Limitation on Liability

Section 1.20.010 **Definitions**

(a) The following words and phrases whenever used in this Code shall have the meaning defined in this section unless a different meaning is specifically defined elsewhere in this Code and specifically stated to apply:

“Authority” means the San Diego County Water Authority, a county water authority organized and existing pursuant to the County Water Authority Act (Stats. 1943, c. 545, as amended).

“Board” means the board of directors of the Authority.

“Chair” means the chairperson of the Board as designated in Chapter 2.00. The Chair may use the title of Chair, Chairman, Chairwoman or Chairperson, as he or she may deem appropriate. The Chair is an officer of the Authority designated by subsection (j) of section 6 of the CWA Act.

“Clerk of the Board” means the employee of the Authority appointed by the General Manager to which the General Manager has delegated ministerial duties of clerk or secretary to the Board.

“Code” means, when used in the context of “this Code” means the Administrative Code of the San Diego County Water Authority.

“CWA Act” means the County Water Authority Act adopted as Stats. 1943, c. 545 and all amendments thereto (West’s Annotated California Codes, Water Code Appendix, Chapter 45.)

“Director” means a duly appointed member of the Board representing a Member Agency.

“General Counsel” means the chief legal officer of the Authority appointed by the Board pursuant to this Code. The term General Counsel includes any deputy or assistant of the General Counsel to whom the General Counsel has delegated responsibility.

“General Manager” means the executive and administrative officer of the Authority appointed by the Board pursuant to this Code. The term General Manager includes any deputy, assistant, department director, or other employee of the General Manager to whom the General Manager has delegated executive, administrative or ministerial responsibility.

“Member Agency” means a public agency the area of which is within the Authority. The term Member Agency as used in this Code shall have the same meaning as in the CWA Act.

“Metropolitan” or “Metropolitan Water District” means the Metropolitan Water District of Southern California.

“Metropolitan Delegate” means a Director appointed by the Board to serve as a representative of the Authority on the board of directors of Metropolitan.

“Person” means any natural person, firm, joint venture, joint stock company, partnership, association, club, company, corporation, business trust, organization, or the manager, agent, servant, officer or employee of any of them or any other entity that is recognized by law as the subject of rights or duties.

“Secretary” means the secretary of the Board as designated in Chapter 2.00. The Secretary is an officer of the Authority designated by subsection (j) of section 6 of the CWA Act.

“Vice-Chair” means the vice-chairperson of the Board as designated in Chapter 2.00. The Vice-Chair may use the title of Vice-Chair, Vice-Chairman, Vice-Chairwoman or Vice-Chairperson, as he or she may deem appropriate. The Vice-Chair is an officer of the Authority designated by subsection (j) of Section 6 of the CWA Act.

(b) For the purposes of this Code the following rules of interpretation shall be used:

1. Reference to any gender shall include the other gender;
2. “Shall” is mandatory; “may” is permissive;
3. The singular number includes the plural and the plural the singular, unless otherwise clearly intended from the context;
4. Words used in the present tense include the past and future tense and vice versa;
5. Words and phrases used in this Code that are not specifically defined shall be construed according to the context and approved usage of the language;
6. Words and phrases used in this Code and also in the CWA Act shall be construed to the greatest extent possible as consistent and to the extent of any inconsistency, the provisions of the CWA Act shall prevail.

1.20.020 **Titles and Headings**

Article, chapter and section titles or headings of this Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article, chapter or section.

1.20.030 **Limitation on Liability**

It is the intent of the Board that any provision of this Code establishing performance standards or establishing an obligation or duty to act or to refrain from acting by any Authority officer or employee shall not be construed as creating a mandatory duty for the purposes of tort liability if the officer or employee fails to perform a directed obligation or duty.